

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KENNETH L. ROYAL,)	4:08CV3239
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
CORRECTIONAL OFFICER)	
HARRIS, in his individual and)	
official capacity, et al.,)	
)	
Defendants.)	

This matter is before the court on its own motion. On February 19, 2009, the court entered a Memorandum and Order allowing Plaintiff to amend his Complaint in order to clearly state a claim upon which relief may be granted against Scotts Bluff County. (Filing No. [13](#).) Plaintiff filed an Amended Complaint on March 4, 2009. (Filing No. [14](#).) After reviewing the Amended Complaint, the court finds that, for the reasons set forth in the court's February 19, 2009 Memorandum and Order, Plaintiff has failed to state a claim upon which relief may be granted as to his claims against Scotts Bluff County Detention Center and Scotts Bluff County. These claims are therefore dismissed without prejudice. However, service is now warranted as to Plaintiff's Eighth Amendment claims.

IT IS THEREFORE ORDERED that:

1. To obtain service of process on the remaining Defendants, Plaintiff must complete and return the summons form which the Clerk of the court will provide. The Clerk of the court shall send THIRTEEN (13) summons forms and THIRTEEN (13) USM-285 forms (for service on the individual Defendants in their official and individual capacities) to Plaintiff together with a copy of this Memorandum and Order. Plaintiff shall, as soon as possible, complete the forms and send the completed

forms back to the Clerk of the court. In the absence of the forms, service of process cannot occur.

2. Upon receipt of the completed forms, the Clerk of the court will sign the summons forms, to be forwarded with a copy of the Amended Complaint to the U.S. Marshal for service of process. The Marshal shall serve the summons and Amended Complaint without payment of costs or fees. Service may be by certified mail pursuant to Fed. R. Civ. P. 4 and Nebraska law in the discretion of the Marshal. The Clerk of the court will copy the Amended Complaint, and Plaintiff does not need to do so.

3. Fed. R. Civ. Pro. 4 requires service of the complaint on a defendant within 120 days of filing the complaint. However, because in this order Plaintiff is informed for the first time of these requirements, Plaintiff is granted, on the court's own motion, an extension of time until 120 days from the date of this order to complete service of process.

4. Plaintiff is hereby notified that failure to obtain service of process on a defendant within 120 days of the date of this order may result in dismissal of this matter without further notice as to such defendant. A defendant has twenty (20) days after receipt of the summons to answer or otherwise respond to a complaint.

5. The Clerk of Court is directed to set a pro se case management deadline in this case with the following text: "August 12, 2009: Check for completion of service of summons."

6. The parties are bound by the Federal Rules of Civil Procedure and by the Local Rules of this court. Plaintiff shall keep the court informed of her current address at all times while this case is pending. Failure to do so may result in dismissal.

7. Plaintiff's claims against Defendant Scotts Bluff County Detention Center and Scotts Bluff County are dismissed without prejudice.

April 16, 2009.

BY THE COURT:

s/Richard G. Kopf
United States District Judge